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BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )  
Complainant, )  
vs. ) Docket UE-152253  
PACIFIC POWER & LIGHT COMPANY, )  
Respondent. )

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PREHEARING CONFERENCE, VOLUME I

Pages 1 - 65

ADMINISTRATIVE LAW JUDGE MARGUERITE FRIEDLANDER

9:30 A.M.

DECEMBER 22, 2015

Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive Southwest  
Olympia, Washington 98504-7250

REPORTED BY: LISA BUELL, RPR, CRR, CCR #2204

Buell Realtime Reporting, LLC  
1325 Fourth Avenue  
Suite 1840  
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360.534.9066 | Olympia  
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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

MARGUERITE FRIEDLANDER  
Washington Utilities and  
Transportation Commission  
1300 South Evergreen Park Drive SW  
P.O. Box 47250  
Olympia, Washington 98504

FOR WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION:

JENNIFER CAMERON-RULKOWSKI  
PATRICK OSHIE  
CHRISTOPHER M. CASEY  
JULIAN H. BEATTIE  
Assistant Attorney General  
P.O. Box 40128  
Olympia, Washington 98504  
360.664.1186  
jcameron@utc.wa.gov  
poshie@utc.wa.gov  
ccasey@utc.wa.gov  
jbeattie@utc.wa.gov

FOR PACIFIC POWER  
& LIGHT COMPANY:

KATHERINE McDOWELL  
McDowell Rackner & Gibson PC  
419 SW 11th Avenue  
Portland, Oregon 97205  
503.595.3924  
katherine@mcd-law.com

MATTHEW McVEE  
Pacific Power & Light Company  
825 NE Multnomah Street  
Portland, Oregon 97232  
503.813.5585  
matthew.mcvee@pacificcorp.com

A P P E A R A N C E S (Continued)

FOR BOISE WHITE  
PAPER:

JESSE E. COWELL  
Davison Van Cleve, PC  
333 SW Taylor  
Portland, Oregon 97204  
503.241.7242  
jec@dvclaw.com

FOR PUBLIC COUNSEL:

SIMON FFITCH  
Senior Assistant Attorney General  
Chief, Public Counsel Division  
800 Fifth Avenue  
Suite 2000, TB-14  
Seattle, Washington 98104  
206.389.2055  
simonf@atg.wa.gov

FOR SIERRA CLUB  
(Via Bridge Line):

GLORIA SMITH  
Sierra Club  
85 Second Street  
San Francisco, California 94618  
415.977.5727  
gloria.smith@sierraclub.org

FOR ENERGY PROJECT  
(Via Bridge Line):

BRAD M. PURDY  
Attorney At Law  
2019 N. 17th Street  
Boise, Idaho 83702  
208.384.1299  
bmpurdy@hotmail.com

\* \* \* \* \*

1 OLYMPIA, WASHINGTON; DECEMBER 22, 2015

2 9:31 A.M.

3 -o0o-

4  
5 JUDGE FRIEDLANDER: Okay. Let's get  
6 started. My name is Margaret Friedlander. I'm the  
7 Administrative Law Judge for this proceeding before the  
8 Washington Utilities and Transportation Commission.  
9 This is the time and place set for a prehearing  
10 conference in the Pacific Power & Light Company's  
11 expedited rate filing or known as an ERF, E-R-F.

12 The matter has been designated by the  
13 Commission Staff as Docket UE-152253.

14 We're going to go ahead and take appearances  
15 by the parties. Just to let you know, I do not need  
16 your addresses, as long as they're accurate and correct  
17 in the filings that you've made. We can skip the phone  
18 numbers and the fax numbers as well.

19 So we'll begin with Pacific Power.

20 MS. McDOWELL: Thank you, Your Honor. And  
21 good morning, everyone. This is Katherine McDowell here  
22 on behalf of Pacific Power. With me today is Matt  
23 McVee, in-house counsel for Pacific Power.

24 JUDGE FRIEDLANDER: Thank you. Appearing  
25 today on behalf of Staff?

1 MS. CAMERON-RULKOWSKI: Appearing on behalf  
2 of Commission Staff, Jennifer Cameron-Rulkowski,  
3 Assistant Attorney General, and with me are also Patrick  
4 J. Oshie, Christopher M. Casey and Julian H. Beattie,  
5 also Assistant Attorneys General.

6 JUDGE FRIEDLANDER: Okay. Thank you.  
7 Appearing today on behalf of Public Counsel?

8 MR. FFITCH: Good morning, Your Honor.  
9 Appearing for Public Counsel, Simon J. ffitch, Senior  
10 Assistant Attorney General, for the Public Counsel Unit  
11 of the Washington State Attorney General's Office.

12 JUDGE FRIEDLANDER: Thank you. We have  
13 three petitions for intervention. Who's appearing today  
14 on behalf of the Energy Project?

15 MR. PURDY: I am, Your Honor. Brad Purdy.

16 JUDGE FRIEDLANDER: Okay. Thank you. And  
17 could you spell your last name for the court reporter.

18 MR. COWELL: Yes. P, as in papa, U-R-D, as  
19 in delta, Y.

20 JUDGE FRIEDLANDER: Thank you. Appearing  
21 today on behalf of Boise White Paper?

22 MR. COWELL: Yes. Thank you, Your Honor.  
23 Appearing on behalf of Boise is Jesse E. Cowell,  
24 C-O-W-E-L-L.

25 JUDGE FRIEDLANDER: Thank you.

1                   And finally, appearing today on behalf of  
2 Sierra Club?

3                   MS. SMITH: Gloria Smith.

4                   JUDGE FRIEDLANDER: Okay.

5                   Are you the attorney of record or is Alexa  
6 Zimbalist?

7                   MS. SMITH: Alexa Zimbalist is my assistant.  
8 I'm the attorney of record.

9                   JUDGE FRIEDLANDER: Okay. Thank you.

10                  And we usually, for purposes of the service  
11 list, have the attorney and one representative of the  
12 organization. Is there someone else on -- or in the  
13 Sierra Club that would receive service?

14                  MS. SMITH: Travis Ritchie -- I supervise  
15 Travis Ritchie. He's a staff attorney with the Sierra  
16 Club also.

17                  JUDGE FRIEDLANDER: Okay. Thank you. Is  
18 there anyone else in the hearing room or on the  
19 conference bridge who wishes to make an appearance?

20                  Okay. Hearing nothing, let's take up the  
21 three petitions to intervene, and we'll begin with the  
22 Energy Project. Mr. Purdy?

23                  MR. PURDY: Yes.

24                  JUDGE FRIEDLANDER: Are there any objections  
25 to intervention by the Energy Project?

1 MS. McDOWELL: No objection, Your Honor.

2 MR. OSHIE: No objection.

3 MS. CAMERON-RULKOWSKI: None from Staff,  
4 Your Honor.

5 JUDGE FRIEDLANDER: Thank you.

6 So you are admitted into the proceeding,  
7 Mr. Purdy, on behalf of the Energy Project.

8 MR. PURDY: Thank you.

9 JUDGE FRIEDLANDER: You're welcome.

10 And we'll go to the Sierra Club. Are there  
11 any objections to intervention by the Sierra Club?

12 MS. McDOWELL: No objection, Your Honor.

13 JUDGE FRIEDLANDER: Thank you.

14 MR. FFITCH: No objection, Public Counsel.

15 MS. CAMERON-RULKOWSKI: Your Honor, Staff is  
16 not objecting to Sierra Club's intervention, but Staff  
17 does want to raise the concern that the Sierra Club  
18 confine itself to the interests that it expressed in its  
19 petition for intervention, and that's specifically the  
20 depreciation schedule and the installation of the SCR  
21 systems on the Jim Bridger units, and Staff is concerned  
22 that issues are not brought into this proceeding that  
23 are better addressed in other proceedings.

24 JUDGE FRIEDLANDER: Thank you.

25 Did you have anything to reply, Ms. Smith?

1 MS. SMITH: Sierra Club has no objection to  
2 that. We are very interested in the interim retrofit of  
3 the Bridger coal plant. We've litigated that issue in  
4 other states, and we have no interests in broadening the  
5 issues in this docket.

6 JUDGE FRIEDLANDER: Okay. Thank you.

7 And I will grant the petition.

8 And is there any objection to Boise White  
9 Paper's intervention request?

10 MS. McDOWELL: No objection, Your Honor.

11 MR. FFITCH: No objection from Public  
12 Counsel.

13 MS. CAMERON-RULKOWSKI: No objection from  
14 Staff.

15 JUDGE FRIEDLANDER: Okay. Great. Thank  
16 you.

17 So the intervention is granted.

18 Let's move into the motion to dismiss. It's  
19 my -- before we go there, it's my understanding that a  
20 protective order has already been entered in this case,  
21 and I would imagine that discovery has already begun.

22 MS. McDOWELL: Yes, Your Honor.

23 JUDGE FRIEDLANDER: Okay. Great.

24 So let's go on to the motion to dismiss.  
25 Mr. Cowell, do you want to brief the Court on that?



1 MR. COWELL: Yes, I'd be glad to. Thank  
2 you, Your Honor.

3 So first of all, Boise is appreciative of  
4 the opportunity to discuss its motions. And to start  
5 off, I'd like to just state Boise's position and all the  
6 content within Boise's motion is appropriate for  
7 discussion here at the prehearing conference.

8 I'd just bring the Court's attention to --  
9 excuse me, the judge's attention to the prehearing  
10 conference rule, which states that the results of a  
11 prehearing conference will control the course of this  
12 proceeding. So in that light, and with the prehearing  
13 conference rule also stating that it's proper to discuss  
14 the identification of issues and kind of a general  
15 clause, that any other issue that may aid the Court in  
16 its determination in this proceeding, that it's  
17 appropriate to discuss everything that's within Boise's  
18 motion.

19 So that said, moving specifically to Boise's  
20 motions. In -- before formulating an issue in these  
21 motions, Boise looked at the precedent that seemed to be  
22 controlling that had come out in the PSE remand  
23 proceeding, including the Thurston County Superior Court  
24 order that partially reversed the Commission's initial  
25 PSE order that had dealt with Puget Sound Energy's

1 expedited rate filing combined with multi-year rate plan  
2 package. So we looked at that, and then we looked at  
3 how the Company presented this filing, and we came to  
4 the conclusion that there is a dilemma or possibly even  
5 a series of dilemmas. The Company called this a  
6 catch-22, but in kind of stating this issue that's  
7 before us, I'd like to state that Boise doesn't believe  
8 that we've created a catch-22, but we're trying to deal  
9 with a series of dilemmas that's before us based on  
10 precedent and how the Company structured its filing.

11 So to start off with, I would agree with  
12 Staff's characterization that Pacific Power's filing is,  
13 quote, very similar in context to the recent PSE case  
14 that I just referred to. Both center upon a multi-year  
15 rate plan in conjunction with an expedited rate filing.

16 And so in our view, here's the initial  
17 dilemma. In the initial PSE final order, which was  
18 Order 7, and eventually there were 15 orders in that  
19 case. The Commission acknowledged that the expedited  
20 rate filing, multi-year rate plan combination was,  
21 quote, somewhat of an experiment. So this is before the  
22 judicial review, before the remand, the Commission said,  
23 look, this is somewhat of an experiment.

24 And so the question now before us is did the  
25 PSE experiment turn out to be a successful experiment

1 such that it would justify PacifiCorp's -- and, again, I  
2 agree with Staff's characterization -- a very similar  
3 filing of a combination of an expedited rate filing and  
4 a rate plan combination. In Boise's view, the answer  
5 would be no, that the Company's filing now is not  
6 justified.

7 Now, again, as I mentioned, the very similar  
8 ERF rate plan combination was remanded back to the  
9 Commission by the Thurston County Superior Court after  
10 judicial review. And once that had happened, the  
11 Commission acknowledged the Court's determination that  
12 it, quote, should have undertaken a full analysis of ROE  
13 in the rate plan and expedited rate filing context. So  
14 the dilemma that seems to be before us is whether the  
15 Company has filed a direct case which would allow the  
16 Commission to conduct a, quote, full analysis of ROE and  
17 another place, the Commission said a thorough-going  
18 analysis of ROE.

19 Boise's contention is that a full or  
20 thorough-going analysis of ROE cannot be undertaken in  
21 the manner that the Company presented its case. Now,  
22 this is based on Boise's view that the Company is  
23 explicitly holding in reserve at least a part of  
24 Mr. Strunk's return on equity testimony. They said they  
25 expressly reserved the right to seek the higher ROE as

1 supported by Mr. Strunk's explicit statement that he had  
2 demonstrated that a higher ROE or 10.0 percent ROE was  
3 appropriate for the Company.

4 Staff also states that the Company's filing,  
5 quote, does not include a comprehensive cost of capital  
6 presentation. And Staff also points out in their  
7 response to Boise's motions -- and I'll clarify that  
8 Staff is not supporting Boise's motions -- but they do  
9 point out a risk that the Commission faces in light of  
10 the Superior Court's ruling. And in view of that, Staff  
11 suggests that the Company should be made to supplement  
12 evidence on cost of capital.

13 Now, Boise pointed out in its motions that  
14 the Commission in 2014 granted a motion to dismiss when  
15 a company, quote -- when a company failed to, quote,  
16 file a direct case that provides full support for its  
17 rate request.

18 JUDGE FRIEDLANDER: I remember that one. It  
19 was mine. Thanks.

20 MR. COWELL: Okay. And, you know, again, in  
21 doing this whole process -- I wasn't aware of that, Your  
22 Honor -- and, you know, obviously I'm just looking at  
23 what's before us? What's the precedent? Where is it  
24 directing us? And again, in that order, it says that  
25 because of that, because there wasn't full support in

1 the direct case, that such a filing, quote, necessarily  
2 results in dismissal. And so the argument that the  
3 Company should supplement its whole case later in the  
4 proceeding was also rejected in that order.

5 So in filing a motion to dismiss, Boise is  
6 asking the Commission to determine whether it can  
7 conduct a full analysis of the Company's return in  
8 equity simply on the basis of the direct case. If the  
9 Commission determines that it cannot, Boise would argue  
10 that a motion to dismiss is appropriate, not  
11 supplementation.

12 If the Commission can, then a thorough-going  
13 analysis of return on equity will be a primary focus of  
14 this case by dint of that determination, and this will  
15 necessarily involve consideration of Mr. Strunk's  
16 testimony purportedly demonstrating that a 10 percent  
17 ROE is appropriate for the Company. And this  
18 effectively amounts to, in Boise's view, a Company  
19 request for an ROE change, which is a definitional  
20 characteristic of a general rate case. And so it's for  
21 this reason that Boise has also filed an alternative  
22 motion to treat this proceeding as a general rate case.

23 And in doing so, Boise, first of all, makes  
24 the point that at least substantively, the Company's  
25 filed what would meet the Commission definition of a

1 general rate case.

2 Staff, in its response, had argued in a  
3 different context, but they had stated that it would be  
4 inappropriate to elevate form over substance when Staff  
5 was arguing that the Commission should consider a  
6 different general rate case rule for determination of  
7 analyzing the Company's filing. And Boise likewise  
8 believes that, at the very least, in substance, this is  
9 essentially a general rate case.

10 Specifically, as Boise pointed out in its  
11 motions, we have a cumulative rate increase request,  
12 it's about 6 percent, and depending on how one  
13 interprets the text of the general rate case  
14 definitional rule, the second year rate plan increase is  
15 over 3 percent.

16 Also, if we get to the point that the case  
17 is not dismissed, then it's going to be -- because it's  
18 a determination that there's sufficient ROE evidence  
19 already in the Company's direct case, in which  
20 circumstance, the Commission is going to be reviewing  
21 the evidence that a higher ROE is appropriate. And  
22 again, that would meet the Commission's definition of  
23 what constitutes a general rate case.

24 Now, in Boise's motions, we've very clearly  
25 stated that we fully recognize that the Commission can

1 exempt various rules when it's in the public interests,  
2 and that's, in fact, what the Commission did in Puget  
3 Sound's ERF and multi-year rate plan combination case.

4 So knowing that, the remainder of our  
5 alternative motion discusses why Boise does not believe  
6 it is in the public interest to treat this as anything  
7 but a general rate case, and I won't go into all the  
8 details. It's in the motion. But essentially that we  
9 have the complexity and breadth that you would see in a  
10 general rate case, and in particular, as we kind of lay  
11 out, we have a stark similarity between the very issues  
12 that were in PSE's prior rate case that the Commission  
13 contrasted in PSE's ERF, and with the Company's own  
14 recent general rate case.

15 And considering all these factors, Boise  
16 believes that it would be appropriate to treat this as a  
17 general rate case.

18 And as a final point, I want to clarify, the  
19 Company, whether explicitly or impliedly, stated that we  
20 are taking the position that coming out against the  
21 concept of an ERF, and we're not. Our position is the  
22 combination of an expedited rate filing with a  
23 multi-year rate plan, which is what the -- was before  
24 the Thurston County Superior Court and judicial review.  
25 And what the Commission commented on in its own

1 precedent in the PSE remand proceeding is what we're  
2 looking at because the Company has filed a very similar  
3 case. And in that context, the ERF with the multi-year  
4 rate plan that the Company is filing should, in the  
5 alternative, be treated as a general rate case. It  
6 would be prudent and appropriate to do so.

7 JUDGE FRIEDLANDER: So let me ask a couple  
8 of clarifying questions.

9 MR. COWELL: Sure.

10 JUDGE FRIEDLANDER: You mentioned  
11 Mr. Strunk's testimony.

12 MR. COWELL: Yes.

13 JUDGE FRIEDLANDER: You said that he's  
14 holding testimony in reserve. Where do you get that  
15 from in his direct?

16 MR. COWELL: I am actually taking that from  
17 the petition, Your Honor.

18 JUDGE FRIEDLANDER: Okay. So there's no --  
19 you're not citing to anything in his testimony that says  
20 he's --

21 MR. COWELL: Well, I -- sorry.

22 JUDGE FRIEDLANDER: No, go ahead. Go ahead.

23 MR. COWELL: So two points: So in paragraph  
24 9 of our alternative motion, we first point out that  
25 Company has explicitly reserved its right to seek the



1 higher ROE supported by Mr. Strunk's testimony. And  
2 then in paragraph 10, we point out that Mr. Strunk has  
3 purportedly demonstrated that an ROE of 10.0 percent  
4 continues to be appropriate for Pacific Power.

5 So the Company, in saying that it's not  
6 updating rate of return, which would include ROE, is  
7 effectively -- it's like holding this contingent delayed  
8 release mechanism. We have this testimony that's out  
9 there, and the Company is saying, look, we're not  
10 seeking an increase of ROE, but it's in -- it's in their  
11 filed case. So that either the Commission's not going  
12 to look at it because the Company is saying, we're not  
13 asking for an increase, or it is, in which case ROE is  
14 out there in this case.

15 There's testimony that Mr. Strunk is  
16 explicitly stating demonstrating a 10.0 percent higher  
17 ROE is appropriate, and in which case we've got a  
18 broader proceeding on our hands which would justify a  
19 general rate case or at least a general rate case-like  
20 treatment.

21 JUDGE FRIEDLANDER: Okay. And so Boise  
22 White Paper is just concerned about the ROE, though.  
23 They're not concerned -- you're not concerned about cost  
24 of capital or capital structure not being an element of  
25 the case?

1 MR. COWELL: I'd say it this way, Your  
2 Honor. And, again, in looking at the precedent of what  
3 the Commission needs to consider, it's going to -- I can  
4 state with certainty, at least based on my reading of  
5 the precedent, that it needs to take a full or a  
6 thorough-going analysis of ROE. Now, that would, I  
7 would presume, necessitate a wider look, because ROE is  
8 a component of capital. But for sure, it needs to take  
9 a very thorough look at ROE, and that very well may open  
10 up the door to a larger examination. But that's  
11 essentially why we're saying this should be treated like  
12 as a general rate case or at least with process that  
13 would approach a normal general rate case process.  
14 Because it allows parties to -- it doesn't unnecessarily  
15 constrain them knowing that ROE may be a central focus  
16 in this case.

17 JUDGE FRIEDLANDER: Okay. That was one of  
18 the questions that I had.

19 Ms. McDowell?

20 MS. MCDOWELL: Thank you, Your Honor.

21 Katherine McDowell here on behalf of Pacific  
22 Power. I appreciate the opportunity to respond to  
23 Boise's motions.

24 To begin with, the standard on motions to  
25 dismiss that this Commission follows is that they should

1 be used sparingly and with care, and in this case there  
2 is no basis for dismissing the Company's filing.

3 Most importantly, in response to Boise's  
4 motion, Staff has reviewed the filing and submitted a  
5 declaration that the Company's filing complies with the  
6 Commission's filing requirements for rate cases. That's  
7 not for ERFs, that's for general rate cases.

8 So under even the higher standard, Staff's  
9 review has indicated that the Company has satisfied the  
10 Commission's filing requirements. That may be implicit  
11 in the fact that the case was recommended for  
12 suspension, the filing was accepted and the adjudicatory  
13 process has begun, but Staff has made it expressed or  
14 explicit in the declaration it filed in response to this  
15 motion. So in terms of just meeting the Commission's  
16 filing requirements, we think that box has been clearly  
17 checked.

18 With respect to the implications of the PSE  
19 orders on this case, as our response details, we believe  
20 that Boise has overstated the impact of those holdings,  
21 and that even under a broad reading of those orders, the  
22 Company has addressed the evidentiary issues by filing  
23 cost of equity testimony in this case, notwithstanding  
24 the fact that the Company is not seeking to change its  
25 return on equity or any component of the cost of

1 capital. We have, out of an abundance of caution, given  
2 the PSE precedent, filed testimony of our cost of  
3 capital expert in our last case, basically indicating  
4 that -- you know, taking the evidence from the last  
5 case, updating it and indicating that providing  
6 evidentiary support for holding ROE and the other  
7 components of cost of capital constant in this case.

8 Now, Boise suggests that the Company's  
9 reservation of its right to put on a full cost of  
10 capital case, in case the Commission decides that it  
11 wants to see a full cost of capital case, does not  
12 convert the Company's filing into something that, you  
13 know, it isn't. I mean, we have done that in a  
14 footnote, as a reservation of rights, understanding that  
15 the Commission does have the discretion to say, this is  
16 what we want to see in this case. If that's the case,  
17 we put that reservation of rights in there instead of  
18 having to refile testimony that would restate the  
19 positions.

20 So we simply put that in there indicating  
21 that if the Commission decides to go a different course  
22 than the one that the Company has proposed here, we  
23 would be able to rely on Mr. Strunk's testimony, but we  
24 don't believe that that procedurally has any impact on  
25 the Company's request or the nature of the Company's

1 filing here.

2 Now, while the Staff also opposes Boise's  
3 motion, Staff has raised the question of whether the  
4 Company should supplement its filings with evidence on  
5 the specific issues they flagged are the current credit  
6 rating and cost of debt.

7 And just to first address the legal issue,  
8 we think that the Commission looked at this issue in  
9 Order 11 on the PSE remand, where the question was  
10 raised, does that remand require the Commission to look  
11 broadly at all of the components of capital -- of cost  
12 of capital, including capital structure and debt as  
13 opposed to just focusing on ROE, return on equity. And  
14 the Commission made clear that the remand was focused on  
15 ROE, and that to the extent issues came in about capital  
16 structure or debt, it was only as they pertain to ROE  
17 that those issues were not opened up by the remand.

18 So we believe that based on that Order 11,  
19 and ultimately the final order which addressed only ROE  
20 and had no mention of either debt or capital structure,  
21 that the PSE case does not stand for the proposition  
22 that all components of cost of capital must be addressed  
23 to comply with whatever precedent PSE orders set. So  
24 for this reason, we don't believe that the  
25 supplementation proposed by Staff is legally required.

1                   Notwithstanding that, we do respect Staff's  
2 position and appreciate their input on what should be  
3 included in this case and what would be helpful to be  
4 included in this case.

5                   So for that reason, we are open to a process  
6 for supplementing the record, as long as we can do it  
7 within the confines of an expedited process so it can be  
8 done without delay. And given the fact that these are  
9 discrete -- very discrete pieces of evidence Staff has  
10 pointed to, we would be open to a process to supplement  
11 the record in that manner.

12                   One thought we had was that we could  
13 supplement the record in response to bench requests.  
14 That would be a very quick and expeditious way to put in  
15 current cost of debt and current credit rating. Those  
16 are not items that we think require significant  
17 testimony. Those are really factual items that could be  
18 elicited and the record could be filled out in that  
19 manner. So we are open to a process like that that  
20 would address Staff's concerns without delaying or  
21 converting this case into something that it's really not  
22 intended to be.

23                   Now, turning to Boise's alternative motion,  
24 we do agree that ultimately the issue really posed by  
25 that motion is about whether this case should be

1 expedited or not, and we appreciate Staff's support for  
2 handling this case in an expedited manner. We do think  
3 we can probably get to an outcome with Staff in terms of  
4 a schedule that would be workable for Staff and meet our  
5 goals for the kind of schedule that has been adopted  
6 previously in limited issue filings. And in Footnote 17  
7 of our petition, we've cited some of those cases. You  
8 know, something like five, six months, in that zone.  
9 That tends to be the schedules that have been adopted in  
10 these limited-issue filings. They're more open to that.

11 We don't think that there's any reason to  
12 convert this case based on cost of capital issues or  
13 otherwise into a full 11-month rate case as Boise  
14 suggests. The petition meets the requirement for a  
15 limited issue filing under 480-07-505. The annual  
16 increases are under 3 percent. The tariffs for customer  
17 classes are limited to under 3 percent, and the Company  
18 did not request a change to its authorized rate of  
19 return or its capital structure, so those are the  
20 requirements of the rule. We have met those.

21 And we also believe -- and this is probably  
22 more important, given the Commission's discretion on  
23 these issues -- that the petition is consistent with the  
24 Commission's stated policy alternatives to seek --  
25 either policies to seek alternatives, to traditional,

1 continual rate case filings. And that's why the Company  
2 has tried to put the ERF together with the rate plan  
3 following the PSE precedent and the Commission's policy  
4 directives.

5 Now, if the Commission does believe it's  
6 necessary, the Commission does have the ability to grant  
7 an exemption from any part of its rules that it believes  
8 an exemption is warranted. And the public policy  
9 rationale in -- that is required, the public interest  
10 finding that's required for such an exemption we believe  
11 is met in this case. The petition offers several  
12 benefits in addition to promoting the types of policies  
13 that the Commission has previously identified in the PSE  
14 case and the Staff has identified in PacifiCorp's prior  
15 rate cases. The list of benefits is in our petition.  
16 It includes a stay-out provision that would result in a  
17 three-year gap between rate cases. And there's a  
18 proposed increase to low-income funding in 2016 and '17.  
19 Additional Commission basis reports that would be filed  
20 to make the process transparent and auditable and  
21 ultimately predictable and limited rate increases.

22 For all of those reasons, we believe our  
23 petition is supported by the evidence and meets the  
24 Commission's rules and the Company's initial burden for  
25 filing, and for these reasons, we would ask the



1 Commission to deny Boise's motions.

2 Thank you, Your Honor.

3 JUDGE FRIEDLANDER: Thank you.

4 So Mr. Strunk's testimony, does it solely  
5 address ROE or does it also go into cost of capital  
6 issues?

7 MS. McDOWELL: Mr. Strunk's testimony solely  
8 addresses cost of equity.

9 JUDGE FRIEDLANDER: And you mentioned that  
10 the Company is not opposed to filing cost of capital  
11 information, but it sounded like you wanted that --  
12 you're more amenable to filing it if it's in the form of  
13 a response to a bench request than in testimony; is that  
14 correct?

15 MS. McDOWELL: Yes. And that's really just  
16 a function of not wanting to build in another round of  
17 testimony into the proceeding and extend the schedule.  
18 You know, we're -- you know, we can probably manage to  
19 do that testimony quickly if people would prefer to see  
20 it in that manner, but either way, our goal is to do  
21 this in the most expeditious way possible, and given the  
22 limited nature of the information requested, we think a  
23 bench request might be the best way to go.

24 JUDGE FRIEDLANDER: Okay. Thank you.

25 MS. McDOWELL: Thank you.

1 JUDGE FRIEDLANDER: Staff?

2 MS. CAMERON-RULKOWSKI: Thank you, Your  
3 Honor.

4 Commission Staff will rely primarily on its  
5 briefing in its response, and I just have a few quick  
6 points.

7 I would reiterate that Staff did review the  
8 filing by Pacific Power in detail, and it did determine  
9 that essentially the Company has met its burden of going  
10 forward, and it would meet a summary judgment standard.

11 The issue from the PSE judicial review case  
12 is, yes, that was limited to return on equity to cost of  
13 equity; however, the real issue in the background there  
14 is the risk of staleness to cost of capital testimony,  
15 and that's why Staff has suggested that the Company  
16 supplement the evidentiary record with additional cost  
17 of capital evidence, and specifically what Staff  
18 believes that the parties are going to need as they  
19 embark on their own cost of capital analysis.

20 Boise is arguing in the alternative that the  
21 filing be redesignated as a general rate case, and Staff  
22 believes, however, that that doesn't really produce a  
23 different result. Under the statute, we have got a  
24 statutory deadline for this case of October 8th, 2016,  
25 and whether this case is designated as a general rate

1 proceeding or not, we still have that suspension date.  
2 And so Staff is unclear about what we would actually --  
3 what actually would change if the case were designated  
4 in a particular way. Perhaps that would mean the full  
5 cost of capital would need to be filed. We're not  
6 exactly sure. However, it doesn't seem like it would  
7 change much.

8 And then I would simply say that Staff  
9 doesn't oppose proceeding through a bench request for  
10 supplementing the record. I think testimony is  
11 generally the most helpful, but we do understand that  
12 there's concern about delaying the process, and Staff --  
13 I'll just finally say that Staff does support moving  
14 this case forward on an expedited schedule, and I  
15 believe we'll get to specifics about the schedule later.  
16 And that concludes my argument for Staff.

17 JUDGE FRIEDLANDER: Okay. Thank you.

18 Mr. ffitch?

19 MR. FFITCH: Thank you, Your Honor.

20 I'd like to also not repeat arguments that  
21 have been made, but touch on a few highlights and just  
22 explain our position.

23 We do support in general the Boise motion.  
24 First of all, with regard to the ERF issues, Public  
25 Counsel has frequently stated in a number of cases that

1 we do not oppose and we're comfortable with the use of  
2 an expedited rate filing in appropriate situation. In  
3 our understanding of what's appropriate for an ERF, is  
4 essentially a simple update type of rate case where a  
5 company has had a fully litigated rate case recently and  
6 can simply come in and update those costs and have a  
7 clean case without new or complicated issues, and that  
8 would include cost of capital that has been recently set  
9 after full litigation.

10 In this case, we think the ERF is not really  
11 an appropriate designation of this case because the case  
12 includes depreciation issues. It includes prudence  
13 issues with regard to the Jim Richard plants. It  
14 includes attrition theories or some type of alternative  
15 rate setting for the second year of the proposed case,  
16 and it includes the cost of capital issues. And so we  
17 just -- we don't think it's really appropriate to call  
18 it an ERF.

19 We also agree that it's most properly  
20 designated as a general rate case for the reasons  
21 stated. The net effect is 6 percent. That's what the  
22 Company is asking for, and elevating, you know, form  
23 over substance to say that that's not a general rate  
24 case, we think it sort of does violence to the spirit of  
25 the rule.

1                   And it also, as has been extensively  
2 discussed here, there is the cost of capital issue  
3 that's in the case. And I think just to follow up on  
4 Ms. Rulkowski's statement, I think that's the difference  
5 of designating it as a general rate case. The main  
6 difference is that cost of capital, then, is clearly at  
7 issue.

8                   So I guess I would go on to say, though,  
9 that even if it's not a general rate case, I think  
10 what's critical for the Commission to decide here is a  
11 schedule that's commensurate with the issues so that --  
12 you know, I'm agreeing here with Ms. Cameron-Rulkowski  
13 on a point that whether or not you define it as a  
14 general rate case, the Commission has got to act by  
15 October. And whether it's a rate case or an ERF or a  
16 general rate case, the schedule -- the Commission's got  
17 quite a bit of discretion about how to set the schedule.

18                   So what we're asking here at the end of the  
19 day from the customer perspective is a fair schedule  
20 that has adequate time to address all the issues, which  
21 may well include cost of capital.

22                   A couple of other points on cost of capital.  
23 We agree with the suggestion of Staff that there is a  
24 staleness issue here. The cost of capital that's in  
25 place right now was not set in the last general rate

1 case. That was a holdover cost of capital from a 2013  
2 rate case, and the Commission expressly just said, we're  
3 not going to really address that in the 2014 case  
4 because that's in litigation. So we think there's a  
5 staleness question with the entire issue of cost of  
6 capital.

7 Just as an aside, Ms. McDowell sort of  
8 arguing that, under the remand decision, only ROE would  
9 be a necessary determination, without addressing that  
10 issue one way or the other, I think, you know, our view  
11 is that the rate of return, aka cost of capital, is  
12 actually under other legal authority an essential  
13 ingredient in setting rates, fair, just and reasonable  
14 rates for customers. So we think you need to have a  
15 record on cost of capital, not just ROE.

16 And one other point that hasn't been  
17 mentioned yet, which we wanted to point out to the bench  
18 is maybe a statement of the obvious, but we have pending  
19 appeals and we may get a decision. We may well get a  
20 decision during the pendency of this case. And one of  
21 the issues on appeal is capital structure. So if there  
22 is a decision regarding capital structure from the court  
23 of appeals, that may affect this litigation as well and  
24 throw cost of capital into the mix as an issue.

25 So I think that may be most of the things I

1 wanted to raise. I guess a couple of other sort of  
2 stray points. There's a similarity with -- I might  
3 describe them as the problems that Puget ran into in its  
4 case. It also sought to rely on a kind of a stand pat  
5 cost of capital from a previous case, and ultimately the  
6 Court decided that wasn't really appropriate. There had  
7 to be a fresh decision made. And so it's not reassuring  
8 to just have the Company say, we're not changing  
9 anything. We don't need to prove anything because we're  
10 not changing anything. I don't know if that's a totally  
11 fair characterization, but in terms of the stand pat  
12 argument, that's -- that's what Puget, you know,  
13 requested to do in their rate plan case.

14 I guess the only other thought sort of  
15 relates to the ERF versus GRC point that occurred to me  
16 in listening to counsel, is that it's interesting to --  
17 the purpose of an ERF is essentially efficiency, I  
18 think, and to try to address rate needs in an efficient  
19 way for the Company, as well as for other parties. And  
20 in this case, actually, the fact that PacifiCorp has  
21 chosen to fully comply with the general rate case filing  
22 requirements, is almost an indication that, you know,  
23 there isn't quite the argument in favor of easing the  
24 Company's administrative burden, if you will. They've  
25 already accepted that burden and put that basic filing

1 information into the record.

2 So I think those are all the thoughts that I  
3 have, Your Honor, with regard to the issues that have  
4 been raised. Thank you.

5 JUDGE FRIEDLANDER: Okay. Thank you.

6 I did have a couple of questions. First of  
7 all, you mentioned that the cost of capital information  
8 may be a bit stale. Do you know offhand when the last  
9 time cost of capital was litigated in a Pacific Power  
10 case?

11 MR. FFITCH: The 2013 general rate case,  
12 Your Honor, is my recollection.

13 MS. CAMERON-RULKOWSKI: The date of that  
14 order is December 4, 2013, I believe.

15 JUDGE FRIEDLANDER: So it's a little over  
16 two years, then?

17 MR. FFITCH: And then probably the test year  
18 that was used for the information relied on by the  
19 witnesses in that case would be older than December  
20 2013.

21 JUDGE FRIEDLANDER: So you had mentioned I  
22 think 2014, that was the case that the Commission  
23 declined to decide cost of capital because of the  
24 ongoing litigation; is that correct?

25 MR. FFITCH: Correct. And they also looked



1 at the statute that allowed them to not revisit an issue  
2 within two years. I think that was one of  
3 the available theories --

4 JUDGE FRIEDLANDER: Okay. Gotcha. Okay.

5 And then the only other question is just to  
6 clarify, you do think that the Superior Court's order  
7 and Judge Murphy's order in particular requires cost of  
8 capital to be litigated in any rate case; is that  
9 correct?

10 MR. FFITCH: Your Honor, I guess I don't  
11 feel prepared right now to talk about specifically what  
12 Judge Murphy's order held. It is our position that in a  
13 rate case, a company has the burden of proof to  
14 establish one of the key cost components for setting  
15 fair, just and reasonable rates, and that is the cost of  
16 capital.

17 JUDGE FRIEDLANDER: Okay. Thank you.

18 What I want to do is go to the intervenors,  
19 and then I'll get back to Mr. Cowell to respond, and I  
20 think I may have some additional questions for  
21 Ms. McDowell.

22 Ms. Smith, did you have anything to add?

23 MS. SMITH: Sure. Just very briefly.

24 Sierra Club also supports Boise's motion. For us, we  
25 think the ERF isn't necessarily an appropriate

1 mechanism. Because as I think Mr. ffitch mentioned, the  
2 currency component of the Bridger retrofit is actually a  
3 fairly large, complicated and controversial issue. We  
4 think that expedited review by the Commission would  
5 burden the parties in working up their case. We  
6 anticipate a fair amount of discovery back and forth and  
7 testimony. And so, you know, if we were to go with an  
8 expedited schedule it would place the burden on the  
9 parties, and we're not really taking countervailing  
10 prejudice to the Company should a fuller schedule unfold  
11 for this proceeding. Frankly, that's all I have on  
12 this.

13 JUDGE FRIEDLANDER: Okay. And so that  
14 relates to I think the alternative motion. The motion  
15 to dismiss, though, relating to the sufficiency of the  
16 return on equity evidence, do you have any position on  
17 that?

18 MS. SMITH: Fair enough. No, Sierra Club is  
19 neutral on that.

20 JUDGE FRIEDLANDER: Okay. Thank you.

21 Mr. Purdy, the Energy Project?

22 MR. PURDY: Yes. Thank you, Your Honor.

23 The Energy Project is not as far along in  
24 its knowledge of this case as the other parties, but it  
25 does support Boise White's motion, and I won't repeat

1 the arguments made by Mr. Ffitch, but I think they were  
2 compelling in his characterization of what circumstances  
3 justify an ERF rather than a GRC. And it does seem to  
4 me to be possible that there -- this case in some way or  
5 another does involve actually an examination of cost of  
6 capital. And so for those reasons, I would simply not  
7 repeat the others and join in the motion.

8 JUDGE FRIEDLANDER: Thank you. And, again,  
9 as with Sierra Club, it sounds like you're supporting  
10 the alternative motion, but I'm not hearing that you're  
11 also supporting Mr. Cowell's argument that the return on  
12 equity testimony is insufficient based on the Court's  
13 ruling?

14 MR. PURDY: At this point, we don't have a  
15 position on the PSE testimony.

16 JUDGE FRIEDLANDER: And, Ms. Smith, you had  
17 something to add?

18 MS. SMITH: I agree. Sierra Club takes the  
19 same position on the return of equity. We're neutral.  
20 We're not taking a position.

21 JUDGE FRIEDLANDER: Okay.

22 MS. SMITH: We do -- as you succinctly  
23 pointed out, we support the alternative motion.

24 JUDGE FRIEDLANDER: Okay. Thank you.

25 Mr. Cowell, did you want to respond to

1 what's been said so far?

2 MR. COWELL: Just briefly, Your Honor.

3 I think that, based on Boise's position and  
4 what I've also heard, that to the extent that we have  
5 a -- and I'm just going to go to the alternative motion  
6 discussion here. To the extent that we have a  
7 controversy over how to designate this process and the  
8 length of process, I think it would be prudent to err on  
9 the side of caution. And in terms of  
10 Ms. Cameron-Rulkowski mentioned what do we have to gain  
11 by a designation, I would say that there is a gain at --  
12 going to Public Counsel's comment, that we're not going  
13 to unnecessarily restrict any review by just treating  
14 this as a general rate case. But even if we don't, I  
15 chose the phrasing to treat "as a general rate case," to  
16 purposefully allow maximum flexibility that even if  
17 it's -- however one would designate it, call it an  
18 expedited case and shave off a month or so, you know, it  
19 technically would be expedited.

20 But as, again, I think it was well stated by  
21 Mr. ffitch that, even if it's not technically a general  
22 rate case, that the process is critical that the  
23 schedule be commensurate with the general rate case like  
24 issues that we have before us.

25 And the final point, we mentioned this in

1 our motions, that the Commission itself affirmed the  
2 original concept of an expedited rate filing by Staff to  
3 be a simple and straightforward process. You used those  
4 exact words. And looking at the totality of what the  
5 Company's filing includes, the various issues and the  
6 complexity, as Sierra Club mentioned, just on one of  
7 their main -- in one of their main issues, that we're  
8 not dealing with that original concept of an expedited  
9 rate filing with what's before us in the Company's  
10 filing.

11 JUDGE FRIEDLANDER: Thank you.

12 Ms. McDowell?

13 MS. McDOWELL: Yes, Your Honor. I just  
14 wanted to clarify -- excuse me a moment.

15 Your Honor, I just wanted to clarify exactly  
16 what went on in the Company's previous rate proceedings  
17 with respect to cost of capital. So cost of capital was  
18 fully litigated in both the 2013 and 2014 cases. We  
19 had, in both cases, full presentation of evidence,  
20 cross-examination, Commission examination on cost of  
21 capital, all aspects of cost of capital.

22 In the 2014 case, the Commission, after  
23 hearing all that evidence, decided not to update the  
24 capital structure or the cost of equity, but the  
25 Commission did update the cost of debt, and the

1 Commission did update the rate of return. So it's not  
2 accurate to say that the Commission did not address cost  
3 of capital in the 2014 case. It certainly did address  
4 it. It addressed it by deciding to hold two of the --  
5 basically make no change in two of the components, but  
6 to ultimately update the cost of debt and change and  
7 reduce the rate of return. So I just want to be clear  
8 that it's not -- it isn't accurate to say that they just  
9 took a pass on the issue in the 2014 case.

10 JUDGE FRIEDLANDER: So the Commission did  
11 rule on the cost of debt and was it the credit rating?

12 MS. McDOWELL: It was the overall rate of  
13 return.

14 JUDGE FRIEDLANDER: Rate of return, okay.

15 MS. McDOWELL: So because cost of debt  
16 changed and was reduced, rate of return changed as well.

17 JUDGE FRIEDLANDER: Exactly, okay. All  
18 right.

19 Okay. So is there any other discussion on  
20 this before I make a ruling?

21 Okay. So I look at this as two motions, two  
22 parts. The first part of Boise White Paper's motion is  
23 the straight-up motion to dismiss based on the Court's  
24 ruling that there has to be adequate presentation of a  
25 return on equity component, even in an ERF, and I will

1 grant you that the Court's decision was fairly obtuse.  
2 But I do agree with that, that there has to be some  
3 return on equity component within an ERF, and I think  
4 that was adequately stated in the PSE remand case as  
5 well. However, I'm not going to get into the merits of  
6 that case, and the Court itself didn't get into a  
7 specific level of return on equity testimony or exhibits  
8 that have to be demonstrated.

9 Our Staff currently is fine with and feels  
10 that the initial filing was adequate in the passing the  
11 prima facie test for going forward, and I am going to go  
12 along with that. So the motion to dismiss is denied.

13 Now, on the other hand, the alternative  
14 motion is a little bit trickier. Staff is correct.  
15 This is a tariff revision, and the Commission has until  
16 October of next year to decide this case. We can call  
17 it a general rate case. We can call it an ERF. We can  
18 call it something else entirely, but ultimately the  
19 Commission does have the length of time given by  
20 regulation to decide this case that is going to be  
21 needed.

22 My main concern here is making sure that all  
23 parties have an opportunity to comment fully and receive  
24 due process, but also that we try and get this done in  
25 an expeditious manner. The alternative motion, I look

1 at it as an attempt to clarify what this proceeding is,  
2 and to that extent, I guess I would just say it's an  
3 expedited rate filing at this point.

4 Now, you all are going to be working in a  
5 moment on a schedule. I'm hoping that you can work  
6 collaboratively and cooperatively and come up with a  
7 schedule that will meet all of your needs. If that  
8 becomes impossible or unworkable, then I'll intervene  
9 and make up the schedule myself. It would be in all of  
10 your best interests, though, I think, for you to have  
11 more participation in what the schedule looks like than  
12 for me to make it up.

13 So I'm going to -- that's about the best  
14 clarification I can give you, Mr. Cowell, as far as what  
15 the proceeding is. It's going to depend on what you all  
16 bring out of it.

17 As far as cost of capital, the Company has  
18 offered to present cost of capital information.  
19 Personally I would prefer testimony. We -- we are  
20 not -- if you can provide it quickly, as is stated -- as  
21 has been stated, that's wonderful. I know that will  
22 meet your needs, and it should hopefully meet the  
23 parties' needs as well. I would feel more comfortable  
24 with testimony than a bench request.

25 Is there anything further on the motion



1     itself?

2                   MR. FFITCH: I defer to Mr. Cowell. I do  
3     have a question if he doesn't seek clarification, Your  
4     Honor. With regard to -- and you partially answered it  
5     by indicating that the Company, I believe, should file  
6     additional cost of capital testimony to supplement what  
7     they filed?

8                   JUDGE FRIEDLANDER: Yes. I believe that  
9     Ms. McDowell had offered to file testimony in the form  
10    of cost of debt and their credit rating; is that  
11    correct?

12                   MS. McDOWELL: In response to Staff's  
13    suggestion --

14                   JUDGE FRIEDLANDER: Right.

15                   MS. McDOWELL: -- that the record be  
16    supplemented in that manner. While we don't agree that  
17    it's legally required, to facilitate the processing of  
18    this case and respond to Staff's concerns, we are  
19    willing to do that in an expedited manner.

20                   JUDGE FRIEDLANDER: And I guess my question  
21    of clarification would be, what does an expedited manner  
22    entail?

23                   MS. McDOWELL: We think that we can have  
24    that testimony prepared within ten days -- I'm hearing  
25    January 8th is the date upon which we would be able to

1 submit that testimony.

2 JUDGE FRIEDLANDER: Okay. Thank you.

3 And, Mr. ffitch?

4 MR. FFITCH: Can I inquire of counsel about  
5 the capital-structure issue, where that would stand?  
6 And maybe also comment on, you know, looking into the  
7 crystal ball, what happens if we get a ruling from the  
8 Court on that issue?

9 MS. McDOWELL: So we are proposing to file  
10 testimony in response to the issues that Staff has  
11 identified. Capital structure is not one of those  
12 issues. The capital structure the Commission has  
13 adopted has been in place for many years. It is on  
14 appeal now, and we have, in our petition, have addressed  
15 that by saying, you know, if there's an order that comes  
16 down, the Commission will need to address that and we'll  
17 need to focus on that, depending on the nature of the  
18 order. And I don't think we can do any better than  
19 that, and I think it's out of our hands. Whatever the  
20 Court says, it says. If the Court affirms the  
21 Commission, then we move forward. If the Court does  
22 something different, then we will need to sort it out  
23 just like the PSE remand.

24 JUDGE FRIEDLANDER: Mr. ffitch?

25 MR. FFITCH: Thank you. That's helpful I

1 think.

2 So just for my own clarification, is it  
3 correct for me to understand that the cost of capital is  
4 an issue in this proceeding?

5 JUDGE FRIEDLANDER: I would say to the  
6 extent that the Company has already filed a return on  
7 equity testimony and that they're going to be filing  
8 testimony on cost of debt, as those two elements relate  
9 to the capital structure, yes, to rebut testimony that  
10 they file. It's hard to talk in generalities when we  
11 haven't seen the testimony yet, but to the extent that  
12 the Company files testimony relating to those issues,  
13 yes, they are fair game.

14 MR. FFITCH: Thank you, Your Honor.

15 MS. McDOWELL: I think the only thing I'd  
16 add to what you just observed is that our position, that  
17 we are not proposing to change any elements of the cost  
18 of capital remains, and that is, you know, not unlike  
19 many issues in many rate cases where we don't propose  
20 any change in that treatment. Typically, those issues  
21 are not the focus of much attention or litigation, but,  
22 you know, they -- I think there is precedent that  
23 parties are free to raise, you know, issues in response  
24 to the Company's testimony. And I agree with you that  
25 to the extent we put in testimony, parties may respond

1 to it.

2 JUDGE FRIEDLANDER: This is a bit of a  
3 conundrum from the Court's order that I have wrestled  
4 with over the last couple of days. When a company does  
5 not propose a change in the capital structure or cost of  
6 the return on equity, it would be very difficult for me  
7 to require testimony that is going to say anything other  
8 than we do not require or do not want to change anything  
9 related to the ROE, in which case we're a bit back where  
10 we started to begin with. It's kind of circular.

11 So I appreciate the fact that the Company  
12 has proposed to file this information, and we can go  
13 forward at this point, but, Mr. ffitch, you had  
14 something you wanted to add.

15 MR. FFITCH: Yes. Thank you, Your Honor.

16 I guess our view of that issue is that the  
17 statement by a company in any given rate case, that the  
18 cost of capital to be employed going forward for the new  
19 rate effective year is X has to be proven by current  
20 valid evidence. And if X is their existing cost of  
21 capital, they still have to prove that that's still the  
22 cost of capital. Because as the Commission has said,  
23 cost of capital is dynamic, so there's no legal  
24 presumption that the cost of capital that was set a year  
25 ago or two years ago is correct, and there's a reduced

1 burden of proof on that.

2 If the Company wishes to retain -- because  
3 it may well be too high -- so if the Company wishes to  
4 retain a preexisting cost of capital, we've got to prove  
5 that that's now still a fair, just and reasonable cost  
6 of capital.

7 JUDGE FRIEDLANDER: Fair enough. I wasn't  
8 referring to the merits of the Company's position. I'm  
9 simply saying that the Court is requiring some kind of  
10 testimony on ROE. If there is no change proposed, it's  
11 hard for me to say that testimony is inadequate when all  
12 it says is, we don't propose any change to ROE. And  
13 so -- inadequate as far as the motion to dismiss, I  
14 should say.

15 Again, not getting into the merits of the  
16 case, are you all comfortable with me stepping out and  
17 you working on a procedural schedule?

18 MS. CAMERON-RULKOWSKI: Your Honor, I could  
19 jump in -- and stop me, other parties, if I'm going too  
20 far -- but we have tried to work out a schedule before  
21 this, and we have not come to a consensus. I would say  
22 maybe we have a couple of factions, and perhaps it would  
23 be -- perhaps we could present proposed schedules to you  
24 at this point, and --

25 JUDGE FRIEDLANDER: Enter into discussion

1 about the dates?

2 MS. CAMERON-RULKOWSKI: We could go ahead  
3 and go on the record and talk about those proposed  
4 schedules if the other parties wanted to do that.

5 MS. McDOWELL: I have no objection to  
6 proceeding in that way. We have had discussions leading  
7 up to the prehearing conference about scheduling.

8 JUDGE FRIEDLANDER: Okay. Excellent.

9 Who wants to go first as far as proposing  
10 the schedules, Ms. Cameron-Rulkowski?

11 MS. CAMERON-RULKOWSKI: I'd be happy to.  
12 May I pass out Staff's proposed schedule?

13 JUDGE FRIEDLANDER: Yes, yes, please.

14 MR. FFITCH: And, Your Honor, just for the  
15 record, Simon ffitch, other parties also prepared and  
16 circulated a proposed schedule, and I'll be happy to  
17 hand you a copy of that.

18 JUDGE FRIEDLANDER: Absolutely. Thank you.

19 MR. FFITCH: This is a proposal from Public  
20 Counsel, Boise and Sierra Club.

21 JUDGE FRIEDLANDER: Are there any other  
22 proposals I should be looking at? Energy Project?

23 MR. PURDY: No. The Energy Project has no  
24 particular schedule in mind yet, Your Honor. Thank you.

25 JUDGE FRIEDLANDER: All right. Well, just

1 speak up if any of these dates conflict with something  
2 you have going on I guess.

3 MR. PURDY: Yes.

4 MS. McDOWELL: Your Honor, if I can just  
5 interject.

6 JUDGE FRIEDLANDER: Yes.

7 MS. McDOWELL: The Company's petition had  
8 requested an order with a rate effective date of May  
9 1st, and you'll notice that this schedule is a June 1st  
10 effective date. We have discussed this schedule with  
11 Staff and can support the June 1st alternative proposed  
12 by Staff, in lieu of our original request for a May 1st  
13 effective date. We have not proposed our independent  
14 schedule because we have discussed the June 1st  
15 alternative with Staff and support that schedule.

16 JUDGE FRIEDLANDER: Okay. Thank you.

17 MS. CAMERON-RULKOWSKI: And then as far as  
18 Staff is concerned, Staff has proposed, I can do June 1,  
19 but the July 1 would probably be more reasonable for  
20 Staff. But Staff does strongly support moving this  
21 forward on an expedited schedule and so has proposed  
22 both of these.

23 JUDGE FRIEDLANDER: Okay. Thank you.

24 I don't see settlement conferences on here,  
25 though.

1 MS. CAMERON-RULKOWSKI: No, Your Honor.  
2 These were just the bare bones dates, and this wasn't  
3 intended to exclude other elements of a procedural  
4 schedule.

5 JUDGE FRIEDLANDER: Okay. I see. So  
6 somewhere in that mix, we would also employ settlement  
7 conferences as needed or as available?

8 MS. CAMERON-RULKOWSKI: Absolutely.  
9 Absolutely, Your Honor.

10 JUDGE FRIEDLANDER: Okay. So why don't you  
11 walk me through the schedule first,  
12 Ms. Cameron-Rulkowski, and then I'll give to you,  
13 Mr. ffitch.

14 MS. CAMERON-RULKOWSKI: So essentially,  
15 Staff looked at trying to get this done by a certain  
16 date and then backed out dates from there, in terms of  
17 what we thought would be a reasonable -- what we thought  
18 would be a reasonable turnaround time.

19 JUDGE FRIEDLANDER: Okay. And so this would  
20 offer Staff enough time to conduct discovery and file  
21 both a response and cross-answering -- cross-answering  
22 testimony?

23 MS. CAMERON-RULKOWSKI: That's our hope,  
24 Your Honor.

25 JUDGE FRIEDLANDER: Okay. And as you



1 mentioned, we do have until October 8th, so I suppose if  
2 that proved unworkable, we could mess with some -- we  
3 could modify some dates.

4 Mr. ffitch, do you want to walk me through  
5 your proposed schedule?

6 MR. FFITCH: Thank you, Your Honor.

7 The overview is that Public Counsel, Boise  
8 and Sierra Club did agree with an effort to expedite the  
9 schedule somewhat over the -- a full ten-month schedule.  
10 And so we have, essentially working off of a nine-month  
11 timeline, a target final order date of September 8th, to  
12 try to shorten the schedule somewhat commensurate with  
13 the major issues that we see.

14 The -- we also did include we think most of  
15 the intermediate dates that would normally be needed in  
16 the schedule. We have settlement -- initial settlement  
17 conference before testimony, you'll see on March 11th,  
18 and then subsequent to the filing of testimony on March  
19 29th.

20 With respect to public comment hearings,  
21 Your Honor, in the Pacific Power rate cases, typically  
22 the Commission -- or frequently the Commission has  
23 scheduled a hearing in Walla Walla and in Yakima on sort  
24 of a combined road trip, and so we would request the  
25 Commission consider doing that again. Obviously meeting

1 the Commission's needs in terms of scheduling  
2 convenience and so on, but we believe it's best to do  
3 that after the responsive party testimony is filed, as  
4 is shown here.

5 JUDGE FRIEDLANDER: Before we move on, did  
6 the Commission schedule any public comment hearings in  
7 the PSE ERF?

8 MR. FFITCH: I don't recall, Your Honor.

9 JUDGE FRIEDLANDER: Okay.

10 MR. FFITCH: I think that whether or not  
11 that occurred, I would say that if -- here we're looking  
12 at after many years of rate -- you know, annual rate  
13 increases for this population, the Company is again  
14 proposing two more, I would think the public would like  
15 to be heard on the request, if possible.

16 JUDGE FRIEDLANDER: And you're recommending  
17 two of those; is that correct?

18 MR. FFITCH: Well, the Commission has often  
19 done a sort of a two-day perhaps -- I believe they've  
20 done sort of a midday in Walla Walla, and then -- or  
21 evening in Walla Walla and then midday the next day in  
22 Yakima or vice versa. Those seem to be workable in a  
23 number of cases, so...

24 JUDGE FRIEDLANDER: Okay.

25 MR. FFITCH: We would support that kind of

1 approach if the Commission would like to do that.

2 JUDGE FRIEDLANDER: Okay.

3 MR. FFITCH: We have proposed, similar to  
4 the other parties, simultaneous posthearing briefs, just  
5 one round to help expedite the schedule.

6 And I would note that our schedule, you  
7 know, as compared with the other proposal from Staff and  
8 the Company, obviously the second proposal, the July 1st  
9 effective date is closer to ours and does allow more  
10 time for the complicated issues in the case. We're  
11 about 30 days apart from that in our proposal. Ours is  
12 only 30 days later than that. Actually, we prefer our  
13 schedule, but there seems to be a little bit of room for  
14 discussion there perhaps. I haven't talked to my other  
15 counsel about that, but big picture, we're 30 days apart  
16 from that July 1st effective date schedule.

17 JUDGE FRIEDLANDER: You are, except for when  
18 you start getting into the evidentiary hearing, which  
19 looks to be about two months' difference.

20 MR. FFITCH: Oh. Sorry, I was perhaps  
21 looking at --

22 JUDGE FRIEDLANDER: Well, the response  
23 testimony is a month, and then it looks like rebuttal  
24 goes to about five weeks, and then we're looking at two  
25 months when it comes to the hearing.

1 MR. FFITCH: I stand corrected. You're  
2 correct, Your Honor. I was looking at the testimony  
3 date.

4 JUDGE FRIEDLANDER: Okay. So given that,  
5 the fact that the testimony dates are about a month off,  
6 would you find it adequate to conduct discovery in the  
7 amount of time it would necessarily be given you in the  
8 July 1st effective date?

9 MS. CAMERON-RULKOWSKI: Your Honor, while  
10 they're considering that, I'd like to mention that  
11 Mr. Kouchi of Commission Staff just informed me that in  
12 the PSE case, there was one public comment hearing  
13 scheduled, and that took place in Olympia.

14 JUDGE FRIEDLANDER: Okay. Thank you. I  
15 appreciate that.

16 MR. COWELL: Your Honor?

17 JUDGE FRIEDLANDER: Yes.

18 MR. COWELL: Can I offer an opinion on that?

19 JUDGE FRIEDLANDER: Absolutely.

20 MR. COWELL: So in just speaking with  
21 Boise's analyst, again, we've joined with Public Counsel  
22 and Sierra Club and do support this as a compromise from  
23 a full general rate case, size, schedule. But if we  
24 were to try to reach an effective compromise even  
25 further, we believe that at the bare minimum, we would

1 need at least until an effective date of August 1st to  
2 extend the current Staff's second proposal here, the  
3 July 1st effective date, that those are a bit too  
4 ambitious and accelerated from our point of view.

5 JUDGE FRIEDLANDER: Okay. And so when would  
6 you be suggesting response and rebuttal testimony come  
7 in?

8 MR. COWELL: Your Honor, while -- so for the  
9 initial Staff, Public Counsel intervenor response  
10 testimony, just sticking with the originally -- the  
11 proposed date of Public Counsel and Sierra Club of April  
12 14, which is slightly less than a month beyond Staff's  
13 proposal.

14 JUDGE FRIEDLANDER: Okay. And then for  
15 rebuttal testimony, May -- actually they have Public  
16 Counsel -- the Public Counsel schedule is May 13th for  
17 rebuttal, cross-answering testimony. Is that what  
18 you're also suggesting?

19 MR. COWELL: Yeah, effectively, Your Honor.  
20 More so looking to shorten maybe the tail end.

21 Also I wanted to point out in the Public  
22 Counsel and Boise, Sierra Club proposal, we had a couple  
23 footnotes there, and regardless of what eventually will  
24 be agreed on in the schedule, we've proposed some  
25 accelerated response times of data requests to try to

1 fit this whole thing within an expedited process if  
2 that's the direction we're going.

3 JUDGE FRIEDLANDER: So I'm really concerned  
4 about whether or not parties have the opportunity -- a  
5 reasonable opportunity to conduct discovery, and from  
6 your schedule, Mr. ffitch, I have that discovery ends  
7 May 30th. From Staff's two schedules, I'm unclear, so  
8 maybe Ms. Cameron-Rulkowski can tell me where discovery  
9 cutoff would be on the June 1st and July 1st dates.

10 MS. CAMERON-RULKOWSKI: We don't have a  
11 discovery cutoff, but I think we'd anticipate that  
12 discovery would go on until we needed to prepare for  
13 hearing.

14 JUDGE FRIEDLANDER: Okay. It typically does  
15 end approximately a week or two prior to hearing, so...

16 MS. CAMERON-RULKOWSKI: And that would be  
17 acceptable to Staff.

18 JUDGE FRIEDLANDER: Okay. And is that  
19 enough time for Boise, Public Counsel and the Energy  
20 Project, as well as Sierra Club, to conduct discovery?

21 MR. PURDY: For the Energy Project, Your  
22 Honor, yes.

23 MR. COWELL: Sorry, Your Honor, what date  
24 are we looking at?

25 JUDGE FRIEDLANDER: We're looking at one or

1 two weeks prior to -- if we were on the July 1st  
2 schedule, which is the most liberal, shall we say, of  
3 Staff's and the Company's, that would be hearing set for  
4 the 25th and 26th of April. A week or two before that,  
5 we would cut off discovery. Would that allow enough  
6 time for the intervenors to have conducted adequate  
7 discovery for hearing? So we're looking at around  
8 mid-April cutting off discovery, as opposed to May 30th  
9 in the alternative schedule.

10 MR. FFITCH: I think conceptually, from our  
11 perspective, that's reasonable. I think that if we run  
12 into a problem at that point, a party could ask for  
13 leave to propound additional discovery if there was a  
14 special problem.

15 I would say that with regard to your overall  
16 question about maybe an alternative schedule or how much  
17 time do we need for discovery, I would support the  
18 proposal from Boise to think about an August 1st date as  
19 sort of a compromise between our proposal and Staff's  
20 July 1st proposal. I really am concerned that we have  
21 the Bridger issues in the case. We have depreciation  
22 issues. We have the sort of special issues raised by  
23 the two-step rate plan. We have got cost of capital.  
24 This company has been filing every year for many --  
25 quite a few years. I don't think there's an intrinsic

1 need for -- need for speed for the sake of it here. We  
2 are willing to work on a shorter schedule than ten  
3 months, but I don't think there's any prejudice to the  
4 parties if we work with an August 1st final order date.

5 MS. McDOWELL: So, Your Honor, if I might.  
6 We do not support the July 1st effective date, so I just  
7 want to be clear.

8 JUDGE FRIEDLANDER: Okay.

9 MS. McDOWELL: That's not our -- we have  
10 agreed to the June 1st effective date schedule --

11 JUDGE FRIEDLANDER: I see.

12 MS. McDOWELL: -- which is a compromise from  
13 where we began, which was May 1st. So just to be clear  
14 where the bookends are, we have not agreed to the July  
15 1st effective date schedule, so I just want to be clear  
16 that any move to August, we would strongly object to. I  
17 mean, at this point right now, a July 1 effective date  
18 takes us six months out and -- or seven months out,  
19 excuse me, so the June 1st schedule we were looking at  
20 is a schedule that gives parties six months from the  
21 time of filing. And we think for a limited issue,  
22 expedited rate filing, a six-month schedule is as long  
23 as the Commission has ever looked at.

24 I mean, both the PSE ERF was conducted in  
25 less time and the other case that people tend to point



1 to, which is the PSE gas-only case, that was cited I  
2 think in the context of the Cascade rate case as a  
3 model. That was I think a five-month schedule. So  
4 we've cited those cases in Footnote 17 of our petition  
5 in support of what we had proposed, the May 1st date,  
6 which was a five-month schedule. We can agree to a  
7 six-month schedule. Staff has proposed it. We think  
8 it's a reasonable compromise.

9 We do not agree to a July 1st schedule  
10 because we think that's too far out, and we certainly  
11 don't agree to an August schedule. We think, you know,  
12 as a part of limiting the issues in this case, the  
13 Company proposed to have the case proceed in an  
14 expedited fashion, and that was part of I think the  
15 public policy concerns that the Commission is trying to  
16 get at more limited cases, expedited and resolved more  
17 quickly to get us out of, you know, 11 months, 11  
18 months, 11 months.

19 So anyway, that's our proposal, June 1st,  
20 which is a six-month schedule, and we think that's  
21 reasonable in this case.

22 JUDGE FRIEDLANDER: Okay. Thank you.

23 MS. SMITH: Your Honor, this is Gloria  
24 Smith. Can I weigh in?

25 JUDGE FRIEDLANDER: Yes, please.

1 MS. SMITH: Thank you.

2 I think one of Sierra Club's main  
3 concerns -- well, we have several, but the first one is  
4 making sure that there is adequate time for discovery.  
5 We are also interested in meaningful settlement  
6 discussions, and we strongly support a public hearing in  
7 this case.

8 The Company is proposing rate recovery for  
9 hundreds of millions of dollars to retrofit a  
10 controversial coal plant. I think on that issue alone,  
11 a public hearing is in order.

12 There may be a few issues in this case, but  
13 they're all fairly complicated. In our experience  
14 dealing with the (inaudible) of over a year ago, there  
15 was a lot of discovery back and forth because sometimes  
16 the Company's responses just raise additional questions,  
17 so we had a number of rounds of discovery. We feel like  
18 there's no countervailing need for the Company's benefit  
19 that would require us to, you know, sort of do the close  
20 range of trying to meet all these deadlines, you know,  
21 without being able to fully develop our case.

22 So with the discovery that we're concerned  
23 about, we honestly believe a meaningful settlement is an  
24 important component here, and then the public hearing.  
25 So we absolutely can't agree to the June 1st day.

1           The July date is approaching something that  
2 we might be able to support, but as I think the Company  
3 mentioned, to start with an end date and then try to  
4 work backwards, all the important pieces don't  
5 necessarily fit in. August might be workable.

6           JUDGE FRIEDLANDER: Okay. So Mr. Cowell had  
7 proposed the potential for the August 1st date, I  
8 believe, and you would be amenable to that or Sierra  
9 Club would be amenable to that?

10          MS. SMITH: Sierra Club would. It will  
11 certainly help to set up the August 1st dates as well.

12          JUDGE FRIEDLANDER: Mr. ffitch, what do you  
13 think about the August 1st date?

14          MR. FFITCH: Your Honor, we would support  
15 that. We think that's a fair compromise between the  
16 full ten months, and it is a shorter schedule,  
17 substantially shorter than ten months, and I think it  
18 appropriately allows time for these issues to get  
19 explored in discovery and adequately supported for the  
20 Commission.

21          JUDGE FRIEDLANDER: Does anyone else wish to  
22 comment? Mr. Cowell?

23          MR. PURDY: Your Honor, this is Brad Purdy.  
24 Unfortunately you're cutting out. I'm hearing part of  
25 this. Are you stating that the -- we're talking about

1 an August 1st effective date?

2 JUDGE FRIEDLANDER: No, not an effective  
3 date. The effective date remains in October. This  
4 would be a projected or a proposed date for a final  
5 order.

6 MR. PURDY: Oh, okay.

7 JUDGE FRIEDLANDER: For a decision of  
8 resolution in the case, and of course all of this will  
9 also have some impact maybe made by whatever decision  
10 the Courts make as well if we get one during the  
11 pendency of this case.

12 So, Mr. Cowell, you were going to speak?

13 MR. COWELL: Yeah. I was just going to  
14 clarify. I mean, I think it's appropriate for the  
15 Company to try to paint the big broad picture and where  
16 they stand and whether they're agreeable to compromise,  
17 and I would say likewise for us, and even discussing an  
18 August 1st effective date, we're on our second run of  
19 compromise here because we're trying to be reasonable  
20 there. And as I'm just hearing from our consultant, I  
21 mean, this is -- that August itself may create tension  
22 for us, but again, we're trying to reach a fair middle  
23 ground.

24 JUDGE FRIEDLANDER: Thank you. Does anyone  
25 else wish to add more perspective?

1 MS. CAMERON-RULKOWSKI: Yes, Your Honor.  
2 Staff has already reviewed this filing, and Staff did  
3 propose these dates believing that we reasonably can  
4 work through these issues and that they are not so  
5 incredibly complex that we will need some of the spans  
6 of time that the other parties are proposing, and so we  
7 think the July 1 order date is quite doable and would be  
8 a good compromise.

9 JUDGE FRIEDLANDER: Okay. Let me just let  
10 you all know right now, I'm going to take this under  
11 consideration, and I will get back to you in the  
12 prehearing conference order with a schedule. I  
13 appreciate all of your comments. However, what I really  
14 want is for Staff especially and all of the rest of the  
15 parties to let me know a proposed -- or at least one  
16 proposed settlement date because I don't know all of  
17 your schedules for the June 1st effective -- June 1st  
18 order date and a July 1st order date. So if you can  
19 come up with and email me some proposed settlement  
20 dates, just so that I have them in case I go with either  
21 of those schedules, that would be helpful.

22 I do want to build in some dates for that  
23 for settlement.

24 MS. CAMERON-RULKOWSKI: I'd be happy to do  
25 that, Your Honor. And if I may, if we -- if we do go

1 with the June 1 and July 1 effective date, there is  
2 something that Staff used very favorably from Public  
3 Counsel's proposed schedule, and that would be to  
4 expedite the response time to data requests.

5 JUDGE FRIEDLANDER: Okay.

6 MS. McDOWELL: Your Honor, we don't have  
7 objection to expediting responses, assuming that the  
8 schedule is reasonably expedited, and so we're open to  
9 that.

10 I do want to just be clear here that we are  
11 talking as the end dates, the effective dates, the  
12 Company's compliance process is usually expedited.

13 JUDGE FRIEDLANDER: Sure.

14 MS. McDOWELL: And we can do it quickly.  
15 We've done it in three or four days previously.

16 JUDGE FRIEDLANDER: Right.

17 MS. McDOWELL: Typically there's about a  
18 week built into the schedule for Staff review, but I  
19 just want to be clear that we're not to confuse final  
20 order dates, which is what is in the public counsel  
21 schedule with order effective dates. I think the  
22 effective date is the date that we tie it to, you know,  
23 the end of the suspension period. That's normally what  
24 we look at. But to get the final order, you have to  
25 back out, you know, at least a few days to allow for the

1 particular compliance process.

2 JUDGE FRIEDLANDER: Right. Understood.

3 Thank you. I will build that into the schedule as well.

4 MS. McDOWELL: Thank you.

5 JUDGE FRIEDLANDER: Is there anything else  
6 before we adjourn?

7 MS. CAMERON-RULKOWSKI: Your Honor, from  
8 Staff, one point if I may. The Commission has scheduled  
9 its spring forum for the week of April 11 through the  
10 15th, so we would greatly appreciate if we didn't have  
11 response due at that time or a hearing or something else  
12 where Staff and possibly the Administrative Law Division  
13 is involved.

14 JUDGE FRIEDLANDER: Thank you for reminding  
15 me about that.

16 MR. FFITCH: Your Honor, too -- I'm sorry to  
17 interrupt.

18 JUDGE FRIEDLANDER: No, that's fine.

19 MR. FFITCH: Two smaller administrative  
20 points. We do have a public notice report item on our  
21 proposed schedule.

22 JUDGE FRIEDLANDER: Yes.

23 MR. FFITCH: That is simply to -- there's  
24 normally a consultation process between the Commission  
25 Staff and the Company and Public Counsel about the

1 format of the public notice, and then often that's  
2 worked out mostly pretty amicably, but this is sort of a  
3 report back if there are any issues to bring back to the  
4 Commission.

5 JUDGE FRIEDLANDER: Okay.

6 MR. FFITCH: And then the other matter was  
7 the request that we could send Your Honor names for our  
8 administrative staff to be included on the electronic  
9 service list.

10 JUDGE FRIEDLANDER: Absolutely. If you can  
11 send those to me by email, if you can by the end of  
12 today, if not by tomorrow sometime, that would be  
13 beneficial, and I will include those in the service list  
14 at the end of the order.

15 MR. FFITCH: Thank you, Your Honor.

16 JUDGE FRIEDLANDER: Yes. Is there anything  
17 else before we adjourn? All right. Thank you very  
18 much. And I will get this prehearing conference out  
19 shortly. Thank you.

20 MS. McDOWELL: Thank you.

21 MR. PURDY: Thank you, Your Honor.

22 JUDGE FRIEDLANDER: We are adjourned.

23 (Prehearing conference concluded at 10:55 a.m.)  
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C E R T I F I C A T E

STATE OF WASHINGTON  
COUNTY OF KING

I, Lisa Buell, a Certified Shorthand Reporter and Notary Public in and for the State of Washington, do hereby certify that the foregoing transcript of the prehearing conference on December 22, 2015, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 6th day of January, 2016.

LISA BUELL, RPR, CRR, CCR

My commission expires:  
DECEMBER 2018